

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 28 1996

Federal Communications Commission
Office of Secretary

In the Matter of

The Application of Southwestern Bell
Telephone Company for Waiver of
of Local Access and Transport Area
Boundaries for the Limited Purpose of
Providing ISDN in the Hearne LATA

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96-159

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Common Carrier Bureau
Network Service Division
Office of the Chief

PETITION FOR WAIVER

Southwestern Bell Telephone Company (SWBT), pursuant to Section 3(43) of the Telecommunications Act of 1996 (Act),¹ hereby makes application for a waiver of certain LATA boundaries² within the State of Texas for a limited purpose in order to comply with a Texas requirement that SWBT provide ISDN in the Hearne, Texas LATA by July 1, 1996.

On February 8, 1996, the Act was signed into law, which eliminated the prospective effect of the Decree³ and conferred upon the Federal Communications

¹ The Telecommunications Act of 1996, Pub. L. No. 104-104 § 3(43) (February 8, 1996, to be codified at 47 U.S.C. § 153).

² In United States v. Western Electric, 552 F. Supp. 131 (D.D.C. 1983), the United States District Court for the District of Columbia entered the Modification of Final Judgment (Decree). The Decree required that AT&T divest itself of its Bell Operating Companies (BOCs) pursuant to a court approved Plan of Reorganization and imposed certain line of business restrictions on the BOCs. As approved by the court, the plan created seven regional holding companies and divided all of the AT&T territory in the United States into geographically-based "exchange" areas, or Local Access and Transport Areas (LATAs). See United States v. Western Electric, 569 F. Supp. 990 (D.D.C. 1983), which approves the LATA area boundaries proposed in the Plan of Reorganization.

³ Act, Section 601(a)(1).

Commission the authority to approve any LATA boundaries established or modified by the Bell Operating Companies after the date of enactment.⁴ Section 3(43) of the Act defines "Local Access and Transport Area" as, in pertinent part, a "contiguous geographic area established or modified by a Bell Operating Company after such date of enactment [of the Act] and approved by the Commission." SWBT is requesting the Commission to waive LATA boundaries solely for purpose of meeting a Texas Public Utility Commission requirement to bring integrated digital services network (ISDN) to a few estimated customers of the Hearne LATA in an economical manner.⁵

Under Texas Public Utility Commission rule, SWBT must make available to all of its customers in Texas ISDN by July 1, 1996.⁶ This requirement applies regardless of an exchange's size, location, or demand for such services. SWBT cannot meet this requirement with the existing equipment and facilities in the Hearne LATA. SWBT's presence in the Hearne LATA is its smallest, with only about 4,430 SWBT access lines. Located in a very rural area in the center of Texas, the Hearne LATA has only one host switch in the Hearne exchange and one subtending remote switch serving the Calvert

⁴ *Id.*, Section 3(43).

⁵ Pursuant to Sections VII and VIII(C), parties to the Decree could petition the court for a waiver and/or modification of LATA boundaries. Prior to the Act, SWBT had petitioned for similar Decree relief to address this particular situation (the only substantive difference is that SWBT had sought to remotely provision ISDN from Houston, instead of Austin as requested here). However, notwithstanding the lack of any opposition by any person, including neither AT&T nor the Department of Justice, the petition was not granted prior to the Act or the Decree being vacated.

⁶ Texas Public Utility Regulatory Act of 1995, Substantive Rule 23.69. A copy of the pertinent pages of that Rule are attached.

exchange. The host, an AXE Ericsson switch, cannot be retrofitted or modified to add the required digital services capability. SWBT estimates that to replace the host switch would cost \$2,166,000. for the fewer than 20 customers SWBT estimates may subscribe to ISDN services in the Hearne and Calvert exchanges.

Rather than replacing the existing switch, the more efficient method of making ISDN service available to the few customers in the Hearne LATA would be to install an ISDN link extension from an ISDN-equipped central office in the Austin LATA.⁷ SWBT uses the same serving architecture to provide ISDN in similar circumstances elsewhere in Texas, but in every other instance the architecture is intraLATA in nature. SWBT seeks the requested Commission action in this particular situation because this serving arrangement would provide an Austin local dialing scope to customers in the Hearne LATA who would subscribe to ISDN. The effect on competition in the \$80 billion interexchange services market,⁸ however, should be *de minimis* given SWBT estimates that demand for such services would be only zero to 20 lines.

Aside from replacing the switches in the Hearne LATA or a wholesale redrawing of the Hearne LATA (e.g., incorporating it into the Austin LATA), there is only one other alternative for bringing ISDN to the Hearne LATA but it is inefficient, impractical and uneconomical. Using a link extension from the Hearne to the Austin LATA (as described above), SWBT could open a new NXX code in the Austin ISDN serving switch and

⁷ SWBT would lease from an interexchange carrier a one-way DS1 facility from the Austin LATA boundary through GTE's Bryan Market Area to Hearne.

⁸ See Long Distance Market Shares: 2nd Quarter, 1995, FCC Industry Analysis Division, p. 12, released October 20, 1995

dedicate that NXX exclusively to Hearne ISDN service. Through switch translations, SWBT could program the switch to restrict that NXX to have Hearne LATA dialing scope. Since the NXX code would otherwise be available for assignment of up to 10,000 lines, dedicating the block for this serving arrangement would be extremely inefficient given the short supply of NXX codes and the very limited demand for ISDN in Hearne (0 to 20 lines).

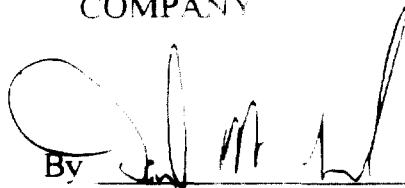
This arrangement would also be economically inefficient. IXC's wishing to offer interLATA ISDN service to customers in the Hearne LATA would have to establish a point of presence in Hearne and provide an ISDN trunk group to Hearne. Given the demand characteristics of this area, the cost to each IXC of providing these facilities would in all likelihood be much greater than the service revenue they would receive. Similarly, SWBT's cost to establish this service arrangement would be much greater than the revenue it could expect for the ISDN service. In addition to leasing telecommunications facilities between Hearne and Austin for the link extension, SWBT would also have to lease backhaul trunk facilities from Austin back to Hearne.

Given the extremely small demand expected in the Hearne LATA for ISDN service, granting this request to allow SWBT to make ISDN service available in Hearne through an ISDN link extension from Austin will have a *de minimis* effect on the growing

\$80 billion interexchange services market. Based on the above, SWBT requests that the Commission grant a waiver expeditiously of the affected LATA boundaries solely so that SWBT may provide ISDN by remote processing.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE
COMPANY

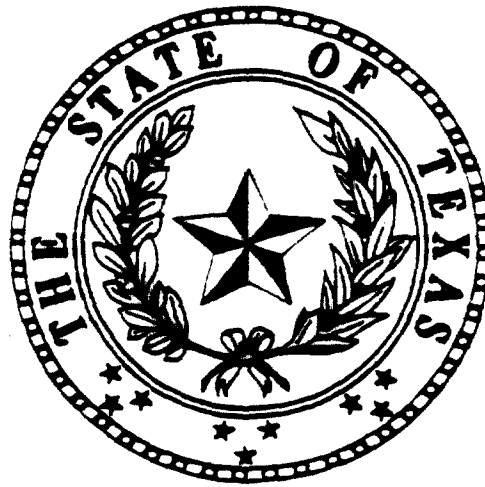
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June 28, 1996

Substantive Rules



Public Utility Commission of Texas

7800 Shoal Creek Boulevard • Austin, Texas 78757 • 512/458-0100

§23.69 Integrated Services Digital Network (ISDN).

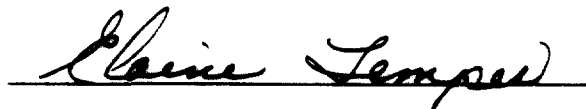
- (a) **Purpose.** The commission finds that Integrated Services Digital Network (ISDN) is an alternative to "plain old telephone service." At this time, ISDN is not a replacement for "plain old telephone service," but rather ISDN provides the public switched telephone network with end-to-end digital connectivity. As such, ISDN should be made available to customers at a reasonable price, should be as accessible as possible to customers who want ISDN, should meet minimum standards of quality and consistency, and should be provided in such a manner that permits the dominant certificated telecommunications utility (DCTU) a reasonable opportunity to earn a reasonable return on invested capital. The provisions of this section are intended to establish the minimum criteria for the provision of ISDN.
- (b) **Application.**
 - (1) This section applies to DCTUs.
 - (2) All DCTUs providing ISDN must do so in accordance with the requirements of this section.
 - (3) An application to make ISDN available under this section shall comply with the requirements of §23.57 of this title (relating to Telecommunications Privacy).
- (c) **Definitions.** The following words and terms when used in this section shall have the following meaning unless the context clearly indicates otherwise:
 - (1) **B-Channel** — ISDN bearer service channel.
 - (2) **Basic Rate Interface (BRI) ISDN** — one of the access methods to ISDN, comprising two 64 Kbps B-channels and one 16 Kbps D-channel (2B+D).
 - (3) **Bellicore** — Bell Communications Research, Inc.
 - (4) **D-Channel** — The ISDN out-of-band signaling channel.
 - (5) **Exchange Area** — has the same meaning as defined in §23.3 of this title (relating to Definitions).
 - (6) **Foreign Exchange (FX)** — exchange service furnished by means of a circuit connecting a customer's station to a primary serving office of another exchange.
 - (7) **Foreign Serving Office (FSO)** — Exchange service furnished by means of a circuit connecting a customer's station to a serving office of the same exchange but outside of the serving office area in which the station is located.
 - (8) **Integrated Services Digital Network (ISDN)** — a digital network architecture that provides a wide variety of communications services, a standard set of user-network messages, and integrated access to the network. Access methods to the ISDN are the Basic Rate Interface (BRI) and the Primary Rate Interface (PRI).
 - (9) **Line** — has the same meaning as defined in §23.3 of this title (relating to Definitions).
 - (10) **LRIC** — Long run incremental cost.
 - (11) **National ISDN** — the standards and services promulgated for ISDN by Bellcore.
 - (12) **Primary Rate Interface (PRI) ISDN** — one of the access methods to ISDN, the 1.544-Mbps PRI comprises either twenty-three 64 Kbps B-channels and one 64 Kbps D-channel (23B+D) or twenty-four 64 Kbps B-channels (24B) when the associated call signaling is provided by another PRI in the group.
- (d) **Availability of ISDN.**
 - (1) No later than July 1, 1996, each DCTU shall make ISDN available to all customers in exchange areas having 50,000 or more access lines as of the February 22, 1995. For purposes of this section, making ISDN available means providing ISDN to a customer within 30 days of that customer's request. Nothing in this section shall be construed as requiring a DCTU to provide ISDN to any customer prior to that customer's request for ISDN. The requirements of this paragraph shall not be met by making ISDN available to the customers of these exchange areas using a foreign exchange (FX) arrangement.
 - (2) No later than July 1, 1996, each DCTU subject to the requirements of paragraph (1) of this subsection shall make ISDN available to all customers in exchange areas having less than

50,000 access lines as of February 22, 1995. The requirements of this paragraph may be met by making ISDN available to the customers of these exchange areas using a foreign exchange (FX) arrangement, if that is the most economically efficient means for the DCTU to make ISDN available.

- (3) It is the goal of the commission that ISDN should be made available to customers in all exchange areas not included in paragraphs (1) and (2) of this subsection. To this end, all telecommunications providers are encouraged to work together to make ISDN available to the customers of the DCTUs that do not have the facilities with which to make ISDN available to their customers. In the exchange areas not included in paragraph (1) of this section, the commission recognizes that ISDN may be made available using a foreign exchange (FX) arrangement, if that is the most economically efficient means for the DCTU to make ISDN available.
 - (4) No later than July 1, 1996, each LEC subject to paragraphs (1) and (2) of this subsection shall prepare a plan describing in detail the DCTU's proposal for its good faith effort toward making ISDN available without FSO and FX arrangements to all of the DCTU's customers no later than January 1, 2000, and/or the DCTU's proposal for its good faith effort toward making available end-to-end digital connectivity that is equal to or superior to ISDN as offered pursuant to this section and that is compatible with such ISDN.
 - (5) No later than January 1, 1997, each DCTU not subject to paragraphs (1) and (2) of this subsection shall prepare a plan describing in detail the DCTU's proposal for its good faith effort toward making ISDN available to all of the DCTU's customers no later than January 1, 2000, and/or the DCTU's proposal for its good faith effort toward making available end-to-end digital connectivity that is equal to or superior to ISDN as offered pursuant to this section and that is compatible with such ISDN.
 - (6) The plans required by paragraphs (4) and (5) of this subsection shall include, but not be limited to, information as to the number and percentage of access lines in the DCTU's service area for which ISDN would be available; the total number of customers that would be served via FX and FSO arrangements; a specific timetable for the upgrading of each exchange; and the proposed steps and methods of each upgrade.
- (e) **ISDN Standards and Services.**
- (1) **ISDN standards.**
 - (A) At a minimum, all ISDN shall comply with National ISDN-1 and National ISDN-2 Standards as promulgated by Bellcore as of February 22, 1995.
 - (B) All ISDN shall be capable of providing end-to-end digital connectivity.
 - (2) **ISDN services.** At a minimum, the DCTU shall make available the ISDN services listed in the National ISDN-1 and National ISDN-2 Standards promulgated by Bellcore as of February 22, 1995.
 - (3) **Existing customers.** Existing customers as of February 22, 1995 may continue to receive ISDN irrespective of whether that ISDN complies with this subsection. Those customers may continue to receive such ISDN and shall be required to receive ISDN under the requirements of this subsection only if there is at least a 30 day customer-caused cessation of the ISDN service provided by the DCTU.
 - (4) **Waiver provision.** A DCTU may request, and the presiding officer may grant for good cause, modification or waiver of paragraphs (1) and/or (2) of this subsection. Such a request may be reviewed administratively. Any request for modification or waiver of the requirements of paragraphs (1) and/or (2) of this subsection shall include a complete statement of the DCTU's arguments and factual support for that request.
- (f) **Costing and Pricing of ISDN.**
- (1) **Costing of ISDN.** The cost standard for ISDN shall be the long run incremental cost (LRIC) of providing ISDN.
 - (2) **Pricing of ISDN.**
 - (A) Rates and terms.

PETITION FOR WAIVER

I, Elaine Temper, hereby certify that the foregoing Petition for Waiver of Southwestern Bell Telephone Company, has been served this 28th day of June, 1996 to the Parties of Record.

A handwritten signature in cursive script, reading "Elaine Temper", is written over a horizontal line.

Elaine Temper

June 28, 1996

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